

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.265, the Environmental Protection Commission hereby amends Chapter 50, “Scope of Division—Definitions—Forms—Rules of Practice,” and Chapter 55, “Aquifer Storage and Recovery: Criteria and Conditions for Authorizing Storage, Recovery, and Use of Water,” Iowa Administrative Code.

The adopted amendments to Chapter 50 include fees for the water use permit program and move the permit fee for the aquifer storage and recovery well permitting program from Chapter 55 to Chapter 50. Adopted in 2008, Iowa Code subsection 455B.265(6) authorizes the Environmental Protection Commission to adopt by rule fee amounts for permit applications and annual fees, up to \$500,000 each fiscal year. In determining the fees, the Commission is required to consider the cost of reviewing applications, issuing permits, ensuring compliance with the terms of the permits, and resolving water interference complaints. Each year, the Commission will calculate the fee based on the budgeted expenses for that year minus the general fund appropriation and the amount of any unused funds from the previous year.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 5, 2008, as **ARC 7307B**. A notice of the proposed rule making, public comment period, and public hearings was mailed to each of the 2,537 current water withdrawal permit holders on November 14, 2008. Three public hearings were held in December 2008 in Onawa (12/3/08), Iowa City (12/5/08), and Des Moines (12/11/08), and were attended by 65 people. Comments were received from 56 people, with varying levels of support or opposition. A public participation responsiveness summary is available from the Department upon request by telephone at (515)725-0281 or by E-mail at diane.moles@dnr.iowa.gov. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code section 455B.265.

These amendments will become effective May 13, 2009.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 50.4(2):

50.4(2) Fees.

a. Application fee. An application to the department for a new permit, modification of an existing permit, or registration of a minor nonrecurring use of water must be accompanied with the fee listed in the table below. These fees are nonrefundable and are not transferable. For any single application, if more than one fee in the table below applies, only the higher fee is required. The fees become effective on July 1, 2009.

Application Description	Form	Fees, in dollars
(1) To apply for a new permit to withdraw or divert water	16 (542-3106)	\$350
(2) To renew an existing permit	542-1470	\$0
(3) To modify an existing permit to either add a new source or increase the amount or rate of water withdrawn or diverted from a source or sources	16 (542-3106)	\$350
(4) To modify the conditions of an existing permit which are not described in Item 3 of this table (see above)	16 (542-3106)	\$0
(5) To apply for an aquifer storage and recovery permit or a protected source designation	N/A	\$700
(6) To apply for a permit to store water	18 (542-3109)	\$75
(7) To register a minor nonrecurring use of water	20 (542-3112)	\$75

b. Annual permit fee. In addition to the application fee, there is an annual permit fee for a water use permit or an aquifer storage and recovery permit. The annual fee shall be based on the number of active permits. Each permit holder shall pay the same annual fee. The fee will not be prorated and is

nonrefundable. The annual permit fee is due December 1 of each year, beginning with December 1, 2009. The department will provide an annual fee notice to each permittee at least 60 days prior to the fee due date. An additional fee of \$100 will be imposed if the fee is not received by December 1. Failure to remit the fee by January 1 may result in the cancellation of the permit.

(1) There is no annual fee for a water storage permit (see (6) of table, paragraph 50.4(2) “a”) or for a minor nonrecurring water use registration (see (7) of table, paragraph 50.4(2) “a”).

(2) The annual fee shall be based on the costs for administering the water use permitting program for the previous calendar year and on the budget for the next fiscal year. The department will review the annual permit fee each year and adjust the fee as necessary to cover all reasonable costs required to develop and administer the water use permitting program. Permit holders that have paid an application fee after December 1, but prior to November 30, will not be required to pay an annual fee until December 1 of the following year. If an applicant remits an annual fee for the 12-month period beginning December 1 and then later submits an application fee for a permit modification, the applicant will be refunded the lesser of the fees. The department shall request commission approval of the amount of the annual fee no later than September 30 of each year.

ITEM 2. Rescind and reserve subrule **55.5(2)**.

[Filed 3/18/09, effective 5/13/09]

[Published 4/8/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/09.